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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,420	05/31/2001	William H. Rogers	32669	9288

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EXAMINER

LOFTIS, JOHNNA RONEE

ART UNIT	PAPER NUMBER
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3623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/871,420

Applicant(s)

ROGERS ET AL.

Examiner

Johnna R. Loftis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11,453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a final office action upon examination of application number 09/871,420. Claims 1-29 are pending and have been examined on the merits discussed below.

Response to Arguments

2. Applicant's arguments with respect to objections of claims 23 and 24 have been fully considered and are persuasive. The objections of claims 23 and 24 have been withdrawn.
3. Applicant's arguments with respect to objections of claims 1-11 and 26-29 have been fully considered and are persuasive. The objections of claims 1-11 and 26-29 have been withdrawn.
4. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments are directed to claims as newly amended, so new rejections have been generated.
5. In response to Applicant's traversal of Examiner's obviousness rejection of claims 4, 7-11, 14, 15, 17, 18, 20, 22, 25 and 26, Examiner points out the previously cited patent reference to Peters et al, US 5,893,098. Peters et al, dating back to 1996, shows that surveys with branched-to-questions, or drill-down surveys, were notoriously well known at the time of the instant invention. Peters et al specifically teaches a system and method wherein survey documents are disclosed that include branched-to-questions linked to other question or questions such that the branched-to-question or questions will only be required to be answered by a respondent user if the respondent user gives a predetermined answer to the question or series of questions to which the branched-to-question is linked.

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6. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gisby, US 5,943,416, further in view of Peters et al, US 5,893,098.

9. As per claim 1, Gisby teaches a connection device connected to an external communication system for connecting said communication system to a survey participant; a Computer-Assisted Telephone Interview (CATI) unit connected to said connection device, wherein said connection device transfers said participant communication connection to a CATI unit when said connection is successful, and further wherein an agent uses said CATI unit to ask said participant manual survey questions; an Interactive Voice Recognition (IVR) unit connected to said CATI, wherein said CATI agent transfers said participant's communication connection to

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said IVR unit only if the participant agrees to the transfer for conducting an automated survey utilizing a drill-down survey technique, wherein said IVR unit accepts oral responses from said participant; and a database for storing said responses to said manual survey and said automated survey (column 5, lines 17-25 and column 7, lines 6-15 – calls at a telephony switch are selected for survey completion, calls are routed to an IVR or a live agent to complete the survey; column 5, lines 23-41 – if the caller gives permission, the caller is routed to the IVR to conduct the survey, otherwise, if no permission is given (figure 2) the caller is routed to a regular agent). Gisby teaches the caller being routed to either an IVR or live agent after giving permission to take part in the survey (column 5, lines 23-60), but does not explicitly teach if permission is not given to transfer the caller to an IVR for surveying that an agent manually surveys the participant. Since Gisby has all the functionality to allow either manual or automated surveys after permission is given from the caller, it would have been obvious one of ordinary skill in the art at the time of the invention to additionally ask permission to perform the survey using IVR technology wherein if the caller disagrees an agent performs the survey manually. The consent by the caller ensures the caller is comfortable with the surveying method and will ensure participation in the survey. In addition, Gisby does not explicitly teach said drill-down survey technique utilizes one or both of responses already provided by the current survey participant and historical responses provided by other participants to determine a subsequent survey question to be asked of the current survey participant. However, Peters et al teaches a system and method wherein survey documents are disclosed that include branched-to-questions linked to other question or questions such that the branched-to-question or questions will only be required to be answered by a respondent user if the respondent user gives a predetermined answer to the

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question or series of questions to which the branched-to-question is linked. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate drill-down survey technique into Gisby's surveying methodology as a way to help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information thereby leading to a more efficient surveying process.

As per claim 2, Gisby teaches a CTI unit, wherein said CTI unit is connected to said connection device to monitor the status of said connection device, and further wherein said CTI unit is connected to said CATI unit to monitor the status of said CATI unit and said agent using said CATI unit; and still further wherein said CTI unit is connected to said IVR unit to monitor said conducting of said automated survey (column 3, lines 7-21 – a CTI processor is used to route callers to the IVR and/or the live agent).

As per claim 3, Gisby teaches CATI agent asks participant for permission to allow IVR unit to conduct said automated survey, and further wherein said IVR unit conducts said automated survey according to a predetermined survey format if said participant assents, and still further wherein said CATI agent performs said manual survey according to said predetermined survey format if participant does not assent (column 3, lines 15-30 – determination is made if the caller wishes to participate – caller is routed to either the IVR or a live agent to complete the survey).

As per claim 4, 17, 18, 20, 22 Gisby does not explicitly teach using a drill down survey technique, however, it is old and well known in the art of automated surveys to utilize drill down

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survey techniques. It would have been obvious to one of ordinary skill in the art at the time of the invention to include drill-down questions in the automated survey system of Gisby since drill-down questions help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information.

As per claim 5, Gisby teaches participant may transfer communication connection from IVR unit to CATI unit by using an oral response, and further wherein the CATI agent then conducts the manual survey at the point on the predetermined survey format wherein said transfer from the IVR unit occurred (column 6, lines 17-26 – calls are routed to the IVR for solicitation of permission and then can be transferred to a live agent for survey completion).

As per claim 6, Gisby teaches the participant uses verbatims to orally communicate opinions to the IVR unit or CATI unit wherein verbatims are stored in a database (column 5, lines 17-58 – participants can orally communicated opinions to IVR or live agent wherein information is stored for later review).

As per claims 7-9 and 15, Gisby does not explicitly teach processing and presenting survey information to the consumer within 24 hours of the completion of the conducting of said surveys, however, it is old and well known in the art of automated surveys to compile the results and present the information to the participants for their viewing. By processing the presenting the survey information to the consumers they will have a clear understanding of how their personal views either agree or disagree with the population of other survey participants.

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As per claims 10 and 11, they are the system for collecting and presenting survey information as disclosed in claims 1-3 and 5-9, therefore, the same rejections as applied above, also apply to claims 10 and 11.

As per claims 12 and 13, they are the means for performing the method of claim 1 therefore the same rejection as applied to claim 1 also applies to claims 12 and 13.

As per claims 14, it is directed to the means for performing the method of claim 8 therefore the same rejection as applied to claim 8 is applied to claim 14.

As per claim 16, it is the process performed by the system of claim 1, therefore the same rejection as applied to claim 1 is applied to claim 16.

As per claim 19, it is the process performed by the system of claim 3, therefore the same rejection as applied to claim 3 is applied to claim 19.

As per claim 21, it is the process performed by the system of claim 5, therefore the same rejection as applied to claim 5 is applied to claim 21.

As per claims 23 and 24, Gisby teaches processing survey information, storing information in a database and presenting information (column 5, lines 42-60).

As per claim 25, it is the process performed by claims 1-3 and therefore the same rejection as applied to claim 1-3 is also applied to claim 25. In addition, Gisby does not explicitly teach using a drill down survey technique, however, it is old and well known in the art of automated surveys to utilize drill down survey techniques. It would have been obvious to one of ordinary skill in the art at the time of the invention to include drill-down questions in the automated survey system of Gisby since drill-down questions help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors

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that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information.

As per claim 26, it is the process performed by claims 1-3, and therefore the same rejection as applied to claims 1-3 is applied. In addition, Gisby does not explicitly teach using a drill down survey technique, however, it is old and well known in the art of automated surveys to utilize drill down survey techniques. It would have been obvious to one of ordinary skill in the art at the time of the invention to include drill-down questions in the automated survey system of Gisby since drill-down questions help you to get a much deeper understanding the survey topic. The process helps you to recognize and understand the factors that contribute to it. Drilling down prompts you to link information that you had not initially associated with a problem. It also shows exactly where you need further information.

As per claim 29, Gisby teaches collecting survey data from survey participants, but does not expressly teach the specific data recited in claim 29; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.

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Allowable Subject Matter

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 28 is allowed.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Joseph et al, US 6,807,274 – call routing from manual to automated dialog of interactive voice response system

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL
12/18/06



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